

Docket No.: 1460.1034

Serial No. 10/025,861

REMARKS

In accordance with the foregoing, independent claim 1 has been amended to clarify salient features of the invention and, further, to improve form; the dependent claims have been amended, as well, to improve form. No new matter is presented and, accordingly, approval and entry of the amended claims are respectfully requested.

All of claims 1-8 are rejected and all thereof have been amended.

Reconsideration is respectfully requested.

ITEM 2: REJECTION OF CLAIMS 1-5 FOR ANTICIPATION UNDER 35 U.S.C. §102(e) BY KLASSEN

The rejections are respectfully traversed.

Claims 1- 5 are rejected under 35 U.S.C. 102 as being anticipated by Klasen et al. However, features of the present invention as recited in the pending claims are not disclosed in Klassen et al. and, hence, the rejections are not supported and should be withdrawn. For example, Klassen et al. does not disclose any configurations that positions means to measure delay time in a place other than at the receiver (see paragraph [0083]). This is clear from the fact that to achieve the object of the art disclosed in Klassen (which is to attain a precise evaluation of network communication performance concerning server- client information transmission), there needs to be, of course, an accurately measured value on delay time. This means that the measured value on delay time must be an actual measurement value that can only be measured at the receiver or the transmitter.

In contrast, the present invention indirectly evaluates the communication performance in transmission paths between the server and client. This can be done in the course of the communication performance measuring equipment receiving information from the transmitter, in place of the client. The configuration of the present invention allows the communication performance measuring equipment, that is separate from the server and the client, to be at a position independent of the respective positions of the server and the client. In other words, the present invention can indirectly evaluate communication performance on paths between servers and clients, by having the communication performance measuring equipment emulate the client on delay time, to simulate transmission of information from servers to clients.

This unique configuration of the present invention gives the present invention an advantageous effect of enabling evaluation on communication performance between a

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preferable server and a preferable client connected by a network, by using only a single communication performance measuring equipment. The delay estimating unit and the reply controlling unit recited in the pending claim 1 are features necessary to have the communication performance equipment to emulate clients on delay times. These features are not disclosed or implied in Klassen.

Claim 1 is amended to recite these features unique to the present invention. Since claims 2- 5 are dependent on claim 1, they should be deemed allowable for at least the reasons that claim 1 is allowable over the art of record.

ITEM 3: REJECTION OF CLAIM 6 FOR OBVIOUSNESS UNDER 35 U.S.C. §103(a) OVER KLASSEN IN VIEW OF TAKAHARA;

ITEM 4: REJECTION OF CLAIMS 7 AND 8 FOR OBVIOUSNESS UNDER 35 U.S.C. §103(a) OVER KLASSEN IN VIEW OF RAMANATHAN

The foregoing rejections of claim 6 over Takahara and claims 7 and 8 over Klassen in view of Ramanathan are respectfully traversed.

These claims depend either directly or indirectly from claim 1 and, thus, inherit the patentable distinctions over the art afforded by at least the limitations of claim 1 and, correspondingly, are likewise allowable thereover.

CONCLUSION

In accordance with the foregoing, it is respectfully submitted that the pending claims distinction patentably over the references and rejections of record.

There being no further outstanding objections or rejections, it is submitted that the application is in condition for allowance. An early action to that effect is courteously solicited.

Finally, if there are any formal matters remaining after this response, the Examiner is requested to telephone the undersigned to attend to these matters.

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If there are any additional fees associated with filing of this Amendment, please charge the same to our Deposit Account No. 19-3935.

Respectfully submitted,

STAAS & HALSEY LLP

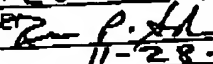
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